

7.04.00.00 - VALUE CONCEPTS AND CONSIDERATIONS

7.04.01.00 **Value Basis**

Required property rights will be appraised at current market value. The property will be appraised as though free and clear of all liens, bond assessments, and indebtedness. The property will be appraised at its highest and best use, considering its legal and economic utility and desirability. Highest and best use is considered to be the reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and results in the highest value.

Any decrease or increase in the fair market value prior to the date of valuation of real property caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property.

7.04.02.00 **Total Value**

The market value of required property is the total appraised value of the property rights proposed for purchase including net damages, if any, to the remainder. This amount is carried forward to the Parcel Summary Page.

7.04.03.00 **Encumbered Fee**

The condition of title of each subject parcel will be examined. The effects of land restrictions and existing rights of way and easements, recorded and unrecorded, will be considered in the land valuation. The effect of routine tract restrictions, domestic utility easements, and easements of nominal effect may be reflected in the overall valuation of the land. Fee areas encumbered with extensive easements and rights of way which materially affect the use or desirability of the land are to be valued separately, reflecting the effect of the encumbrances. Great care must be exercised in evaluating the effect of private land restrictions or easements in which the subject parcel is a servient tenement. In these cases, a separate appraisal of the dominant tenement and the effect on the servient tenement may be required.

7.04.04.00 **Mineral, Water, Oil and Gas Rights**

Mining claims, water rights, mineral reservation, and oil and gas rights will be valued as separate rights in land, if separately owned, or if comparable data supports other than nominal valuation. The appraisal will include the land value of the right, the improvements appurtenant to the right, and the damage payments and construction contract work necessitated by the proposed highway construction. The value of the fee ownership should reflect the loss of the surface area and other rights required to exploit the resource.

Frequently, these rights may be exploited in the after condition without interfering with the use of the surface for highway purposes. In these cases, the appraisal may show the right at a nominal land value and appropriate payments for improvements, damages, and construction contract work.

When necessary to make separate appraisals of these interests, the Appraisal Branch will identify the separate rights by subparcel letter designation. These rights need not be delineated on Appraisal Maps unless required for clarity.

7.04.05.00 **Improvement Bonds and Assessments**

Property will normally be appraised free and clear of improvement bonds and assessments. This assumes that the appraised value reflects these improvements over properties not so improved and therefore not subject to bonds and assessments. Comparable data are to be adjusted to reflect these differences where the comparables are not subject to the same bonded indebtedness.

Exception to this policy will be allowed only if both the following conditions are met:

- A. The assessment Region/District is relatively new, and few, if any, sales have occurred which reflect the effect of the bonded improvements on property values.
- B. The appraisal indicates that the bonded improvement will be adequate for the area and will add value to the properties, at least, commensurate with its cost.

7.04.06.00 **Leasehold Interests “Bonus Values”**

The valuation of parcels will be made as if free and clear of leasehold interests. However, leasehold information is required. The appraisal will contain the name of the lessee, lease rate, and general summary of the lease terms. The contract, estimated economic rents and any circumstances which may indicate a “bonus value” situation, including the statement that one does or may exist, will be discussed.

“Bonus Value” is defined as the value of a tenant’s leasehold interest in the real estate arising from contract rent that is less than the economic rent. The economic rent must be consistent with the highest and best use of the property. The amount of “bonus value” is a matter between lessor and lessee. Any “bonus value” shall be estimated only at the request of the Acquisition Branch for assistance in negotiations and not included in the Appraisal Report.

7.04.07.00 **Waivers**

A Waiver may be required when a change of grade of an existing street affects a subject property but no other rights are required. In this instance, the remark “Waiver Only” and a nominal value will be shown under the “Land” heading on the Appraisal Page (Form RW 7-9). Valuation will be shown under “Damages.”

7.04.08.00 **Access Rights**

The value of restriction of abutter’s rights, including access rights is measured by the loss in value of the remaining property before and after the restriction. The requirements for abutter’s rights and/or access rights will be marked on the Appraisal Page (Form RW 7-9) of all partial acquisitions. If abutter’s rights and/or access rights are the only property rights acquired, the remark “Abutter’s Rights and/or Access Rights Only” and nominal value will follow the “Land” heading. Valuation of any loss will be shown under “Damages.” (See Section 7.09.00.00.)

Project Development may request appraisals for potential “value enhancement” caused by the Department’s disposal of access rights. The measure of “value enhancement” is the potential increase in value of the abutting property before and after the access is granted. See Project Development Manual, Chapters 26 and 27, as well as Chapter 16 of the Right of Way Manual for guidance.

7.04.09.00 **Temporary Easements**

Temporary requirements such as detours will be valued by the loss in utility and desirability of the encumbered area, and other affected portions, for the period needed. This loss may be expressed as a discounted land rental for the period of the loss of owner’s actual use of the area. The period of loss may vary considerably. For example: Actual use of a parking lot may be lost only during actual construction. Conversely, the loss may occur for the full term of the agreement if a commercial property is precluded from development or profitable use until the termination date. Describe the basis of valuation and term of loss of actual use. A damage payment for restorative work after termination may also be necessary.

7.04.10.00 **Permanent Easements**

Permanent requirements of less than fee title, such as drainage easements, will be valued by the loss in utility and desirability before and after the imposition of the encumbrance. This loss may be expressed as a percentage of

unencumbered fee value. The requirement may also involve improvements and possible damages and benefits to the remaining property.

Care must be exercised that easements existing within the subject fee acquisition are properly valued and that double payment is not proposed for easement replacement requirements.

7.04.11.00 **Unit Values**

Comparable data, land, and improvement values are normally expressed as unit values. The unit values are then adjusted and applied to land and/or improvements of the subject, as appropriate, after taking differences into account.

Occasionally, land may be valued by comparison on a site (unit) or lot basis. This method must be supported by the comparable data. In a partial acquisition, the land will be valued at the comparable unit value of the class of land of which it is a portion. Distribution of value between right of way requirements and excess will be shown at the component unit land values of the classes of land of which the portions are a part.

7.04.12.00 **Hazardous Waste and Hazardous Material Definition**

A material is hazardous if it poses a threat to human health or the environment. The term “*hazardous waste*” is applicable to the storage, deposit, contamination, etc., involving a hazardous material (HM) which has escaped or been discarded or abandoned and which may be defined in general terms as being any of the following:

- Flammable
- Reactive (subject to spontaneous explosion or flammability)
- Corrosive
- Toxic

“*Hazardous materials*” may be any of a large group of the above products. A partial list is contained in the California Administrative Code (Division 4, Chapter 30, Article 9, Title 22). If their use is under control and in accordance with applicable statutes and regulations, there is generally no appraisal problem.

7.04.12.01 **Hazardous Waste General**

Each Region/District has a designated Region/District HW/Materials Coordinator. This is the contact person for all HW information that may pertain to the development of a project. They will be responsible for seeing that the Director’s policy memorandum dated July 22, 1991 is implemented and complied with relative to HW. The major points affecting Right of Way are:

- A. No real property acquisition or possession is to take place until HW investigation reports have been completed and the appraisal reflects those findings.
- B. The parcel Certificate of Sufficiency from Project Development to Right of Way is to include a narrative certification from the DDC PD that the property can be
 1. considered free of significant HW; or
 2. the Certificate will include a completed and approved property investigation report stating the nature and extent of contamination and an appropriate remedial cost estimate; or
 3. if appropriate, the Certificate will state the owner’s approved cleanup plans, schedule and current status.

7.04.12.02 **Certification**

Project Development is the lead unit responsible for HW identification, investigation and cleanup on required right of way. Project Development is the primary responsible unit for HW identification, investigation and cleanup prior to construction.

During the early stages of project development, the Region/District Project Development and Environmental units will identify sites or facilities that may be contaminated with HW for further investigation. Note: R/W is a Project Development Team member, and its perspective and functional input and needs on HW parcel issues should begin early in the project development process.

Project Development thereafter administers HW investigations and should furnish resulting parcel report copies and estimated costs to R/W by the time the parcel Certificate of Sufficiency is approved and forwarded to Right of Way.

The R/W Appraisal Branch must receive and consider in the appraisal the effect of the parcel HW investigation report, or receive a certification from Project Development that the parcel is considered “free” of HWs, before a resulting parcel appraisal can be approved for acquisition purposes.

Right of Way as part of the Project Development team will assist in the identification and investigation phases whenever possible and will provide the primary source of contact with property owners and operators. As such, Right of Way will:

- A. Alert Project Development whenever a new potential HW site is discovered.
- B. Obtain necessary Permits to Enter for HW investigation and cleanup from property owners and operators, including securing court orders through the Legal Division.
- C. Provide normal right of way clearance activities to include cleanup of minor HW situations which can be handled as part of the clearance contracts.

Early identification of potential HW is essential. The Region/District Project Development Branch is responsible for developing and maintaining a HW tracking system data base; however, Right of Way should assist in any possible way and ensure that Project Development is aware of any suspected HW sites.

Project Development must administer the HW investigation. It must give a copy of any reports and cleanup costs to R/W by the time the Certificate of Sufficiency is approved and provided to R/W. This must then be considered in the appraisal of the parcel or the Certificate must state the parcel is “free” of HWs before the appraisal can be approved for acquisition.

7.04.12.03 **R/W HW/Materials Coordinators Activities**

The Region/District’s R/W HW/Materials Coordinator activities include:

- Determine and communicate R/W’s market value inspection needs to Project Development when they are different from the remediation requirements for project construction.
- Identify and track all parcels requiring HM inspections.
- Monitor projects and parcels requiring investigations for completion status per R/W schedule and leadtime requirements.
- Prepare and administer HM inspection contracts.

- Obtain Legal Division coordination as necessary.
- Secure entry approvals from property owners as required for investigations.
- Obtain copies of HW inspection reports and estimated remedial costs and give those reports to the proper R/W functions.
- Approve inspection reports on HM and projected remedial actions and costs.
- Deliver reports in a timely manner.
- The early identification of utility relocation easements to be acquired by R/W so they too may be cleared of potential HW problems.

7.04.12.04 Hazardous Materials

Asbestos containing materials (ACM) and other HMs must be fully considered to ensure property with such HM is not acquired without adequate prior investigation, valuation analysis and clearance abatement. HMs primarily include asbestos, but can include PCBs, lead based paints, etc.

The identification, investigation and evaluation of parcels which may contain HMs must be made early to assure meeting project delivery schedules. This early identification requires the appraiser to use common sense and knowledge to identify possible HM containing property. Once identified, inspection will have to be made by licensed, qualified persons. Inspections will be performed by licensed, qualified persons, usually contractors hired by contracts awarded under the bidding process either by task order or separate contract.

The property owner must give prior written permission before an inspection can be made.

The inspection will include a determination of:

- A. The type, extent, location, and quantity of ACM (and any other suspected significant HM), within the structure;
- B. Condition of the ACM - friable, nonfriable, stable or deteriorating, etc.;
- C. Identification of and cost of appropriate remedial action(s):
 1. Removal
 2. Other acceptable steps (encapsulation, etc.)
 3. Cost of restoration.

Every improved property will be inspected except:

- A. Residential improvements of one to eight units when:
 1. The market approach is the only or clearly the primary basis for valuation;
 2. Comparable data shares the general characteristics of the subject; and
 3. The existing improvements represent the highest and best use of the property;

- B. Improvements constructed entirely after January 1, 1980.
- C. Those improvements constructed with materials which can be easily determined to not contain HMs (example: all metal storage buildings).

7.04.12.05 **HW Site Identification**

This, as well as information on testing and/or cleanup, including a cleanup cost estimate appropriate for fair market value appraisal analysis, should be furnished by Project Development for all parcel appraisals including replacement utility easements to be acquired by the Department. The appraiser may obtain information to assist Project Development in identifying possible HW sites that may have been missed. This includes observing potential problems during the inspection of the subject property. It also includes questioning the owner and lessee about current and past possible HM and possible contamination on the site including underground storage tanks. When previously undiscovered tanks do exist, the appraiser must obtain as much information as possible regarding tank size, age, construction, location, contents, etc.

The appraiser must document observations and discussions with the property owner, lessee or other occupants regarding possible waste problems in the Parcel Diary. This must be passed on to Project Development and the Hazardous Waste Coordinator. (See "Notification" below.)

As a general guide for appraisers, some present and prior land uses where HW/HM problems may exist are set forth below.

- A. Commercial and industrial sites such as service stations, muffler shops, bulk plants, paint manufacturing companies, machine shops, plating works, dry cleaning plants, chemical and fertilizer companies which may use or have used solvents, cleaning compounds, catalysts, cutting oils, plating solutions, dyes, paints, or other chemicals;
- B. Junk yards, auto wrecking yards, dumps, or landfills;
- C. Underground or aboveground tanks for storage of liquid hydrocarbons, pesticides or other toxic materials;
- D. Existing buildings with asbestos siding, roofing, ceiling material, floor tiles, fire-proofed doors, or insulation on water pipes, heaters, heating ducts, steel framing, etc.
- E. Disposal sumps or pits which may contain agricultural chemicals or industrial wastes;
- F. Utility substations or storage/maintenance facilities, and;
- G. Sites where contamination may have resulted from an adjacent property owner's operation.

7.04.12.06 **Notification**

When a suspected HW site has not previously been identified, R/W is to immediately notify Project Development by memorandum with a copy to the Hazardous Waste Coordinator. This memorandum is to give full details as to the appraiser's observations and findings regarding the potential HW problem. The memorandum will request an investigation to determine future actions. If the investigation finds potential HW and testing is necessary, Project Development will hire a consultant to determine the nature and extent of the waste. If testing confirms contamination, Project Development is to furnish the Appraisal Branch with a cleanup cost estimate.

7.04.12.07 Valuation

Regardless whether the right of way requirement is fee or easement title, the real property will be appraised recognizing the effects of HW and HM on its market value.

A. HAZARDOUS WASTES -

The valuation of property that involves an identified HW site will include: 1) The market value of the property as if free and clear of the HW. 2) The market value of the property considering the effects of the HW.

The opinion of market value of a property in its contaminated condition must consider the following:

- Local regulatory agency cleanup requirements.
- Estimated cleanup cost furnished by Project Development.
- Market data involving sales, offers or listings of properties with comparable cleanup problems.
- Marketability of parcels with known HW cleanup problems considering opinions of developers, brokers, lenders, insurers, investors or other informed persons.
- Any other pertinent data, opinions, etc.
- Comparable data verification will at a minimum include the following:
 1. Was site investigation or testing done as a condition of sale? What were the results?
 2. Did the transaction price or terms reflect the results and/or cost of correction?
 3. Was an indemnification agreement to protect the buyer from risks associated with HW/HM a part of the deal?
- If investigation indicates that the property being appraised either originated or caused contamination that has, or may have, also contaminated adjacent property, HQ R/W is to be contacted.
- Adequate comparable data may not be available to directly conclude a fair market opinion of a property in its contaminated condition. In such cases, the alternate appraisal may consider deducting the estimated cleanup cost from the value of the property as if free and clear of the HW. The estimated cleanup cost should reflect what a market value buyer would reasonably expect to pay in order to utilize the property at its highest and best use. This does not necessarily follow the remedial methods, costs or construction schedule associated with the Department's project. Also, the property's highest and best use could change depending on the nature and extent of contamination and alternate remediation options and costs.
- Analysis must consider the cleanup requirements, for highest and best use, of the local regulatory agency having jurisdiction. Full cleanup may not be required or can be delayed for a certain period of time. Thus, the cleanup estimate as furnished by Project Development may need to be adjusted or discounted to reflect the market value situation.

Appraisals that result in a negative value (cost of HW cleanup exceeds market value of cleared property) will be shown as "\$0."

The existence or absence of possible hazardous waste will be noted on the Appraisal Page (RW 7-9) in every appraisal by checking "Yes" or "No" after "Possible HW (including underground tanks)." Where possible or confirmed HW problems do exist, a full discussion will be included in the body of the appraisal. This discussion will describe the nature of the problem or suspected problem, regulatory agency cleanup requirements, status of testing or cleanup plans and any other pertinent information, including the impact on market value, if any.

B. HAZARDOUS MATERIALS -

The Appraisal Branch must obtain and fully evaluate the impact of ACM, or other HM, before an appraisal report can be approved for acquisition purposes. The Appraisal Branch retains the responsibility for requesting needed inspections on improved properties which were originally excluded from inspection. The appraisal report will document if an inspection was not required.

Appraisals of all improved properties to be acquired will reflect market adjustments for the presence of ACMs or other significant HMs.

Evaluation of improved comparable sales data will, at a minimum, include verification of the following:

1. Was an inspection of the buildings for HWs and/or HMs made as a condition of sale? If "Yes," what were the results of the inspection?
2. Did the transaction price or terms reflect the results and/or the cost of correction or other HW/HM considerations?
3. Was there an indemnification agreement provided by the seller that affected the property's sale price by protecting the buyer from liability, risk or exposure associated with a known or possible HW/HM condition?

Valuation will consider the impact of HM on the property. The market may react to the presence of HMs in an improvement on the subject by adjusting the price/terms of the purchase agreement. Dollar adjustments, if any, may be more, less, or equal to the cost of the remedial action to remove, restore, or otherwise mitigate the problem.

The effect of HM on value will vary depending on whether the existing improvements are the highest and best use of the land. Cost of remedial action may change the highest and best use. Further, any remodeling, renovation, repair or modernization which requires disturbance of otherwise dormant HMs in order to achieve or maintain highest and best use must be analyzed. Economic life of improvements may be shortened as a result.

The fact that the Department will incur cleanup costs as part of the right of way clearance process does not necessarily indicate that the market value of the property is affected. In appraisals where the estimated demolition cost of an improvement is being deducted from the market value of a property as if vacant and ready for development, the estimated demolition cost should include the removal of any HMs.

Containerized HM used in an operation that represents the highest and best use of a property, will ordinarily not affect market value—i.e., paint stored in cans in an auto paint shop. On the other hand, containers of HM that must be removed to utilize a property to its highest and best use may impact market value—i.e., abandoned drums of toxic chemicals on a vacant site.

Following investigation, the existence or absence of HM will be noted in the appraisal. Where HMs occur, the appraisal discussion will include a description of the materials, their location and condition, any regulatory controls applicable, the effect on the property's current or future use, present and/or future remediation actions and costs, and the estimated impact on market value.

7.04.13.00 **Market Value of Nonprofit, Special Use Properties**

The statutory definition of market value has been modified to add that a just and equitable method of determining the value of nonprofit, special use property as defined, for which there is no relevant, comparable market is:

“The cost of purchasing land and the reasonable cost of making it suitable for the conduct of the same nonprofit, special use, together with the cost of constructing similar improvements.”

The new provisions are applicable only if the property meets all four of the following criteria:

1. The subject property is operated for a special, nonprofit use.
2. The operator must have an exempt status with the State or Federal Income Tax offices.
3. The property is not owned by a public entity.
4. There is no relevant, comparable market data.

“The cost of purchasing land” is considered to be the estimated cost to acquire an area of sufficient size to conduct the special use. It is not necessary to identify any specific property. The cost should usually be estimated on the basis of typical unit or site prices for a land area with sufficient utility to conduct the use. The geographical area analyzed to arrive at the typical price should be suitable to the special nonprofit use.

“The reasonable cost of making it suitable for the conduct of the same nonprofit, special use” should be based on the typical or appropriate factors in the geographical area suitable to the use. There is no requirement to base the cost on a specific site, and there is no requirement that the nonprofit entity relocate in order to be compensated under this method.

Compensation for improvements on such property shall be based on “the value of reproducing the improvements without taking into consideration any depreciation or obsolescence of the improvements.” The cost of constructing or reproducing similar improvements will usually be the replacement cost new, with no deduction for depreciation or obsolescence.

The total of three costs is the value under this method. In each case where the value is based on the above-described method, a second valuation must be prepared and included in the report. The latter will usually be the market value of the subject property using a conventional cost approach. This is because Federal participation in acquisition costs will continue to be limited in these cases to fair market as commonly measured on the basis of replacement cost new less depreciation, unless the market indicates otherwise.

The difference between the two valuations will be a nonparticipating, state-only payment. Properties of this type may not be acquired often but have potential for significant effects on capital and scheduling, and should be discussed with the Headquarters Appraisal Branch before the owner is contacted and the appraisal begun. When the appraisal of a nonprofit, special use property is completed under this provision, the report is to be approved by HQ R/W.

NOTES: